

Court of Appeals, State of Michigan

ORDER

David H. Sawyer
Presiding Judge

Matt Ward v John C. Siano, Jr., M.D.

Henry William Saad

Brian K. Zahra

Docket No. 265599

Peter D. O'Connell

Donald S. Owens

LC No. 03-001864-NH

Kurtis T. Wilder

Karen M. Fort Hood
Judges

The Court orders that the November 14, 2006, per curiam opinion is hereby AMENDED. The opinion contained the following error in both lines 5 and 8 of the second paragraph of page 1: "affidavit of merit" should read "notice of intent to sue." Therefore, the second paragraph of the opinion now reads:

. . . In *Waltz*, our Supreme Court stated that the two-year period contained in the wrongful death saving statute, MCL 600.5852, was not tolled by serving a medical malpractice defendant with a notice of intent to sue. *Waltz*, *supra* at 655. Our Court recently reaffirmed that *Waltz* applies retroactively, *Mullins v St Joseph Mercy Hosp*, ___ Mich App ___, ___ NW2d ___ (Docket No. 263210, issued July 11, 2006), so plaintiffs who filed before *Waltz*, but incorrectly and detrimentally relied on their notice of intent to sue to toll the running of the saving statute, are barred from pursuing their claims. . . .

Further, the per curiam opinion also contained the following errors in the second full paragraph on page 2, lines 5 and 6: In line 5, the citation to "MCL 600.5856" should read "MCL 600.5852," and the reference to "affidavit of merit" in line 6, should read "notice of intent to sue."

In all other respects, the November 14, 2006, per curiam opinion remains unchanged.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

NOV 21 2006

Date

Sandra Schultz Mengel
Chief Clerk